

#### **5.30.020 Nuisances prohibited.**

- A. It is unlawful for any person to create or maintain, or to knowingly allow or permit the creation or maintenance of, any nuisance as described in this chapter within the city.
- B. It is unlawful for any person to interfere with or prevent, or attempt to interfere with or prevent, the abatement of any nuisance by an officer or representative of the city pursuant to the provisions of this chapter.
- C. Any person, organization, or entity who makes or causes any nuisance to exist shall be deemed the author of the nuisance. Moreover, any person who has possession or control of any private property or premises, whether he is the owner of the property or not, where any nuisance exists or is found, shall be deemed the author of the nuisance. Moreover, any person who is the owner of the private property or premises, or an agent for the owner of the private property or premises, who, having received prior notice of the existence of such nuisance, shall fail to remove the thing or things or abate the condition described in such notice, shall be deemed the author of the nuisance. Each and every day during which a nuisance continues shall be deemed a separate offense and shall be prosecutable and punishable as a separate offense.

#### **5.30.030 Inspection of properties.**

- A. Inspection Authorized. Any administrative officer shall have the power and authority to inspect and examine any public or private property in the city for the purpose of ascertaining the nature and existence of any nuisance.
- B. Right of Entry – Generally. Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever any administrative officer has reasonable cause to believe there exists in any building or upon any premises any condition which constitutes a nuisance hereunder, such administrative officer may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed upon him.
  - 1. If, building or premises is occupied, the administrative officer shall present proper credentials and request entry. If entry is refused, the administrative officer shall not enter upon such building or premises without issuance of a search warrant.
  - 2. If, building or premises is unoccupied, the administrative officer shall make a reasonable effort to locate the owner or occupant or other person or persons having charge or control of the building or premises, and upon locating the owner, occupant, or other person or persons, shall present proper credentials and request entry. If entry is refused, the administrative officer shall not enter upon such building or premises without issuance of a search warrant.
  - 3. If, the owner or occupant or other person or persons having charge or control of the building or premises cannot be contacted, a notice shall be posted on the property, for a period of 24 hours, giving notice of the City's intent to inspect the property or premises. After the 24 hour period with no response, or if entry is denied, the administrative officer shall not enter upon such building or premises without issuance of a search warrant.

- C. Search Warrants. The administrative officer is authorized to apply to the municipal court of the city for issuance of a search warrant pursuant to the Colorado Municipal Court Rules of Procedure. Upon presentation of the search warrant and proper credentials, or possession of the same in the case of an unoccupied building or premises, the administrative officer may then enter into the building or upon the premises using such reasonable force as may be necessary to gain entry.

**5.30.040 Notice and Abatement of Nuisances.**

- A. Notice to Abate. An administrative officer of the city, upon the discovery of any nuisance on public or private property in the city, may notify the owner or occupant of the property in writing, requiring the owner or occupant of the property to remove and abate from the property the thing or things or condition described as a nuisance within the time specified in the notice.
- B. Time allowed for Abatement. The owner or occupant of the property shall be given 7 days, from date of service, within which the thing or things or condition described in the notice as a nuisance shall be removed or abated. Such time for abatement of the nuisance may be increased if it appears to the administrative officer, based on the facts and circumstances known that compliance cannot reasonably be made within seven days, in which case a longer period of time may be given.
- C. Contents of Notice. The notice to abate issued pursuant to the provisions of this section to the owner or occupant of property upon which a nuisance was discovered shall contain the following:
1. The address or other description of the property upon which the nuisance was discovered;
  2. The name and address of the owner of the property upon which the nuisance was discovered;
  3. The name and address of the occupant of the property upon which the nuisance was discovered, if known, and if different from the owner;
  4. A description of the thing or things or condition deemed to be a nuisance;
  5. The time in which the thing or things or condition are to be removed or abated from the property;
  6. A statement advising the owner or occupant that he may protest the determination of the administrative officer with respect to any matters stated in the notice, by filing a written protest pursuant to GMC 5.30.060 with the municipal court within the time allowed for the removal or abatement of the nuisance described; and
  7. A statement that if the owner or occupant fails to comply with directions contained in the written notice or file a written protest thereto in the time allowed, the city may elect to pursue criminal charges, may enter the property, abate the nuisance described therein, and assess the costs thereof to the owner of the property, or may seek any lawful remedies allowed pursuant to GMC, Section 5.30.080.

- D. Service of the Notice. The written notice to abate shall be served by the administrative officer of the city by:
1. Personally delivering a copy of the notice to the owner of the property described in the notice if the owner also resides at the property; or
  2. Personally delivering a copy of the notice to a non-owner occupant or resident of the property described in the notice and mailing a copy of the notice by First Class Mail, return receipt requested, to the last known address of the owner, as reflected in the county real estate records; or
  3. Mailing a copy of the notice by First Class Mail, return receipt requested, to the last known address of the owner of the property described in the notice, as reflected in the county real estate records, if the property is unoccupied, and by posting a copy of the notice in a conspicuous place at the unoccupied property.
  4. Service of the notice shall be complete upon the date of personal delivery, upon receipt date reflected in return receipt or ten days after posting property as required herein.
- E. Non-compliance with Notice. If the owner or occupant of the property fails or refuses to comply with the directions of the written notice and does not file a written protest to such notice, as provided in GMC 5.30.060, then the administrative officer shall proceed pursuant to GMC, Section 5.30.080, Enforcement and Remedies.

**5.30.050 Recovery of the expense of abatement.**

- A. In the event that the city abates the nuisance pursuant to GMC 5.30.040, the actual costs of the abatement, together with a fee in the amount of \$100.00 or 10 percent of the abatement costs, whichever is greater, shall be assessed upon the property from which such nuisance is abated.
- B. The costs assessed shall be paid to the city's director of finance within 30 days after the director of finance has mailed notice of the assessment of such costs by First Class Mail, return receipt requested, to the owner of the property; provided, however, that if the property is occupied by someone other than the owner, notice of the assessment shall be mailed to both the owner and the occupant. The assessment of costs shall be a lien in the amount assessed against such property until paid, and shall have priority over all other liens, except general taxes and prior special assessments.
- C. If any assessment is not paid within 30 days after the date it is mailed, the director of finance is hereby authorized to certify to the county treasurer a list of all delinquent assessments, giving the name of the owner as it appears in the real estate records of the county, the description of the property sufficient to identify the property upon the records of the county treasurer, and the amount of the assessment. The county treasurer, upon receipt of such list, certified in such form as the treasurer may require, is hereby authorized to place those assessments upon the tax rolls for the current year and to collect those assessments in the same manner as other taxes are collected. (Code 1997 § 5-3-5).

**5.30.060 Protest of notice of abatement.**

- A. The owner, his agent, or the occupant of the property subject to a notice of abatement, within the time stated in such notice for removal of the thing or things or abatement of the condition described therein, may protest the findings of the administrative officer with respect to any matter stated in the notice, by filing a written notice of protest with the municipal

court. The municipal court shall deliver a copy of the protest to the city attorney and the administrative officer who issued the notice.

- B. Municipal court shall schedule and conduct a hearing on the protest at the next available court date, but not less than seven days from the date protest is filed. At the hearing, the protesting party and representatives of the city shall appear in person. Both parties may be represented by legal counsel. The parties shall have the right to present evidence and arguments to confront and cross-examine any witness and to oppose any testimony or statement relied upon by an adverse party. The municipal court may receive and consider any evidence which has probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs.
- C. Once the municipal court has scheduled a hearing on the protest, written notice of such hearing shall be mailed to the protesting party and given to the city attorney and administrative officer who signed the notice of abatement. Such notice shall be mailed to the protesting party and given to the city attorney and administrative officer not less than seven days prior to the scheduled hearing.
- D. Upon the filing of a written protest as provided herein, the period of time for removal of the thing or things or abatement of the condition described in the original notice of abatement shall be extended until final disposition of the protest by the municipal court, plus the amount of time granted in the original notice, or as otherwise ordered by the municipal court.

#### **5.30.070 Emergency Abatement**

Emergency Abatement. Whenever an emergency situation exists in relation to the enforcement of any of the provisions of this chapter, an administrative officer, upon presentation of proper credentials, in the case of an occupied building or property, or possession of the credentials in the case of an unoccupied building or property, may enter into any building or upon any property within the jurisdiction of the city. For purposes of this subsection, an “emergency situation” includes any situation where there is imminent danger of loss of, or injury or damage to, life, limb, or property. The administrative officer may take such action as is necessary to remove the thing or things or abate the condition which creates such emergency. The administrative officer may proceed pursuant to GMC, Section 5.30.080, Enforcement and Remedies, without compliance with the time and warrant restraints provided in GMC, Sections 5.30.030 and 5.30.040.

#### **5.30.080 Enforcement and remedies.**

- A. In addition to any other remedies that may be available to the city, including the right to maintain an action in any court of record for the prevention, restraining, abatement, or enjoining of any public nuisance, and in addition to any other procedural remedy which may be permitted by this code, the city may enforce the terms of this chapter by any lawful means.
- B. Any violation of GMC, Section 5.30.020 is a misdemeanor.